

SHERIFF OF COOK COUNTY,)
)
 vs.)
) Docket # 1797
 CATHERINE McCLENDON,)
 Correctional Officer,)
 Employee # [REDACTED])
 Star #3101.)

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II. POLICY

Officers shall use an amount of force reasonable and necessary based on the totality of the circumstances to perform a lawful task, effect an arrest, overcome resistance, control a subject, or protect the officer(s) or others from injury, as specified by federal/Illinois statutes and case law. The CCSO utilizes the Use of Force Model (2010) – John C. Desmedt and Protective Safety Systems

Incorporated to provide guidance on the appropriate amount of force to be used to effect a lawful purpose and to articulate a detailed report on the officer's actions. The Use of Force model employs the progressive and reasonable escalation and de-escalation of officer applied force in proportional response to the actions and level of resistance offered by a subject.

Every use of force greater than social control, officer presence or verbal control must be reported as outlined in this directive. Officers shall not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

V. DEFINITIONS

- E. Excessive force – The application of an unreasonable amount of force in a given incident based on the totality of the circumstances.

VIII. PROCEDURES

- C. Intervention during excessive force incidents. If an officer knows that another officer is using excessive force against a subject, the officer must take appropriate action. The action required by the officer shall depend upon the circumstances of the incident. However, appropriate action may include, but are not limited to, verbal or physical intervention, immediate notification to a supervisor, or a direct order by a supervisor to cease the use of excessive force.

- D. Reporting alleged or actual excessive force incidents.

Any employee:

1. With knowledge of the suspected and/or actual excessive use of force or knowledge of an excessive use of force allegation shall immediately verbally report this information to his/her supervisor. The immediate supervisor shall report the verbal notification to the watch commander. The watch commander may require the employee to complete and submit a To/From Memorandum.
2. Witnessing a use of force incident shall be required to complete and submit to the responding supervisor a Witness Statement as part of the

Data Collection Form completed by the watch commander prior to the end of the shift.

XIII. APPLICABILITY

- A. By order of the Sheriff of Cook County, this Sheriff's Order applies to all CCSO officers and must be strictly observed.
- B. Any conflicts with previous orders, policies or procedures shall be resolved in favor of this order.
- C. All CCSO officers are required to familiarize themselves with the contents of this order and to adhere to the policy established herein.

GENERAL ORDER 24.9.1.0 (effective July 11, 2011)

REPORTING INCIDENTS, in its entirety, including but not limited to, the following subparts:

II. POLICY

It is the policy of the CCDOC to have written procedures for reporting and documenting incidents involving staff, inmates, and visitors, as well as to ensure that incidents or problems with the facility, i.e., sanitation, plumbing, electrical, ventilation, or any other situation that creates a dangerous workplace, are reported and documented in a timely and professional manner.

Employees shall immediately report to their supervisor any information indicating a violation or attempted violation of criminal laws, or a threat to the safety and security of the facility, its property or any person.

Report shall be made verbally and in writing as directed by this order.

VII. PROCEDURES

A. Notification

- 1. All reportable incidents occurring within CCDOC involving staff, inmates, or visitors are required to be verbally reported and documented on an Incident Report by staff via the chain of command.
- 2. Response to resistance/use of force incidents by staff shall be reported in accordance with the current CCSO Response to Resistance/Use of Force Policy.

B. Incident Report Requirements

- 1.

2. CCDOC staff shall completely and accurately document and incident or situation that he or she observes or that is reported to him/her.
 3. All CCDOC staff shall promptly prepare the Incident Report and forward the report to the supervisor.
 - 4.
 - 5.
 6. Incident Report shall be prepared immediately after an incident in order to be as accurate as possible; however, they shall be completed, submitted and reviewed by a supervisor prior to being relieved from duty.
- C. Any employee failing to file a report or filing a false report shall be subject to disciplinary action up to and including termination of employment and/or the filing of criminal charges.

F. General Reporting Guidelines

2. Complete and accurate documentation of events and incidents within CCDOC facilities and other sites are essential. Written reports and reports in IMACS serve to keep staff informed of developments and problem areas within the facility. Reports are also instrumental in the planning and implementation of Sheriff's Office policies and procedures.

VIII. APPLICABILITY

This General Order is applicable to all employees of the CCDOC. All employees shall familiarize themselves with the contents of this order. All supervisors will review the contents of this order with all employees under their supervision as appropriate, and ensure the provisions as outlined are strictly adhered to. This order is for strict compliance.

SHERIFF'S ORDER 11.2.20.0 (effective January 25, 2013)

RULES OF CONDUCT, in its entirety, including but not limited to, the following subparts:

II. POLICY

The CCSO serves the citizens of Cook County by performing law enforcement functions in a professional manner, and it is to these citizens that the CCSO is ultimately responsible. Employees of the CCSO shall conduct themselves in a professional and ethical manner both on and off duty. Employees shall not engage in activities that reflect unfavorably on the CCSO but shall instead serve to further the mission of service.

III. APPLICABILITY

This order is applicable to all employees of the CCSO and is for strict compliance. Any violations of this Sheriff's Order may result in disciplinary action up to and including termination. Any conflicts with existing directives shall be resolved in favor of this order.

VI. RULES AND REGULATIONS FOR ALL SWORN AND CIVILIAN CCSO EMPLOYEES

A. Compliance with Laws, Ordinances, and Regulations

2. Employees shall comply with lawful rules, Sheriff's Office written directives, verbal orders, SEAM articles, and political prohibitions issued by the proper authorities.

B. Conduct on and off duty.

CCSO employees shall:

2. Conduct themselves on and off-duty in such a manner to reflect favorably on the CCSO. Employees, whether on or off-duty, will not engage in conduct which discredits the integrity of the CCSO, its employees, the employee him/herself, or which impairs the operations of the CCSO. Such actions shall constitute conduct unbecoming of an officer or employee of the CCSO.

COOK COUNTY SHERIFF'S DEPARTMENT MERIT BOARD RULES AND REGULATIONS, in its entirety, including but not limited to, the following subparts:

Article X, Paragraph B

No Police Officer of the Cook County Sheriff's Police Department, nor any Correctional Officer of the Cook County Department of Corrections, nor any Deputy Sheriff of the Cook County Sheriff's Court Services Department shall:

3. violate any of the general orders, special orders, directives or rules and regulations of the CCSO.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what if any discipline is appropriate if a violation occurred.

Evidence Presented:

A hearing was conducted on November 5, 2015 and January 25, 2016 at the Cook County Administration Building, 69 W. Washington Street, Room 1100, Chicago, Illinois. Present were Assistant State's Attorney [REDACTED] and Assistant General Counsel [REDACTED] on behalf of the Cook County Sheriff and Attorney [REDACTED] on behalf of the Respondent.

The following exhibits were admitted into evidence:

Sheriff's Office:

1. Video of the incident 8/7/2013
2. Respondent's statement to OPR
3. Respondent's use of force report
4. Sheriff's Order Response to Resistance/Use of Force Policy 11.2.1.0
5. Sheriff's Order Rules of Conduct 11.2.20.0
6. General Order Reporting Incidents 24.9.1.0
7. Merit Board Article X
8. Transcript of testimony of [REDACTED] dated 9/24/15
9. Transcript of testimony of [REDACTED] dated 9/24/15
10. Transcript of testimony of [REDACTED] dated 9/24/15
11. Transcript of testimony of [REDACTED] 9/24/15
12. Command Channel Review dated 4/15/2014
13. [REDACTED] – CV
14. [REDACTED] Correctional Use of Force Experience

Respondent:

1. Collective Bargaining Agreement – Teamsters Local 700
2. Response to Resistance/Use of Force report written by [REDACTED] dated 8/7/2013 and Memorandum of Investigation by [REDACTED] dated 2/14/2014
3. Response to Resistance/Use of Force report and Officer Battery Report written by [REDACTED] dated 8/7/2013 and [REDACTED]'s statement to OPR
4. Response to Resistance/Use of Force report written by [REDACTED] dated 8/7/2013 and [REDACTED] statement to OPR
5. Response to Resistance/Use of Force report, Officer Battery Report, and Inmate Disciplinary Report written by [REDACTED] [REDACTED] dated 8/7/2013 and [REDACTED] statement to OPR
6. Respondent's Disciplinary History
7. Complimentary/Disciplinary History
8. Resource Guide for Jail Administrators

The following witnesses testified for the Sheriff:

[REDACTED]

[REDACTED] (herein after "[REDACTED]") testified that he had been with OPR for nine (9) years investigating allegations of misconduct. He investigated at least 100 cases. He was assigned to

investigate use of force incident that occurred on August 7, 2013 in RCDC. He observed the video from the incident, interviewed all officers and the inmate and reviewed all reports filed by the officers. Sheriff's Exhibit 2 was a copy of the statement made by the Respondent to OPR on March 28, 2014. Investigator [REDACTED] and Union Representative [REDACTED] were present for the interview. Respondent was given all her rights along with a copy of the allegation which she signed. [REDACTED] said he asked Respondent what happened during the incident with Inmate [REDACTED] (herein after "[REDACTED]"). [REDACTED] said Respondent told him that [REDACTED] was combative with the officers; that there was a struggle between [REDACTED] and the officers; that she observed [REDACTED] (herein after "[REDACTED]") punch [REDACTED] and that she did not view the punches as excessive in use of force. Sheriff's Exhibit 1, the video of the incident, was played. At 2:48:28, [REDACTED] flooded the holding cell. At 2:55:56, there were officers coming in to the cell. At the conclusion of the investigation, [REDACTED] made the finding that [REDACTED] used excessive force because the force used was a higher level than the amount of resistance put up by [REDACTED]. Additionally, [REDACTED] made the finding that Respondent failed to report excessive force in violation of the use of force order and that she failed to report excessive force after observing it. [REDACTED] did not recommend the penalty.

On cross-examination, [REDACTED] testified that he was not involved in the discipline aspect of the investigation. His role was to determine whether the allegation was sustained, not sustained, unfounded, or exonerated. Respondent's Exhibit 7 was a copy of [REDACTED] summary report with his signature. [REDACTED] said he submitted this document on August 16, 2014. He typed in the initial recommendation for discipline that was given to him by the Assistant Director [REDACTED] and then it went up the formal chain of command. [REDACTED] explained that he would not normally see the Command Channel Review returned to him unless they wanted him to investigate further. From viewing the video, [REDACTED] said he could not definitely say that every punch [REDACTED] threw landed on [REDACTED] however, he had determined that it was an excessive use of force. [REDACTED] agreed that under the Sheriff's Orders governing Response to Resistance/Use of Force, an officer's response may be higher than the level of detainee's non-compliance. Sheriff's Exhibit 4 was a copy of the Sheriff's Order 11.2.1.0 Response to Resistance/Use of Force policy. Applying this order and the Use of Force paradigm from the John C. Desmedt Protective Safety Systems Model, [REDACTED] believed that [REDACTED] initially was an assailant but after he was bent over a wall and arms behind his back, he became more of a resister. Once [REDACTED] was a resister, [REDACTED] did not believe that [REDACTED] ever became an assailant again. [REDACTED] said that if [REDACTED] attempted to head butt or spit at the officers, he would then be escalated to an assailant. [REDACTED] agreed that a determination of whether an inmate was classified as an assailant or resister may change within a matter of few seconds. During the interview of the Respondent, she told [REDACTED] that she saw that the cell was flooded; that [REDACTED] became combative; that Officer [REDACTED] (herein after "[REDACTED]") and [REDACTED] gave commands; that [REDACTED] refused all verbal commands; that [REDACTED] resisted [REDACTED] and [REDACTED]'s attempts to control him; that she saw [REDACTED] spit on a numerous times; and that she did not view [REDACTED] actions as excessive. [REDACTED] agreed that an appropriate or a reasonable use of force was based on the totality of the circumstances. He did not rely on any materials from an expert in determining whether allegation against the Respondent should be sustained.

On re-direct examination, [REDACTED] testified that after his investigation, he submitted his report to his supervisor. The supervisor made his recommendation which he typed. The report then was sent to the Command Channel Review. Sheriff's Exhibit 12 was a copy of the Command Channel Review form first dated April 14, 2014. This document was sent to the

Command Channel Review which came back as the Command Channel Review form marked as the Respondent's Exhibit 7, dated August 16, 2014. [REDACTED] agreed that a determination whether to classify an inmate as a resister or an assailant depended on how much force that inmate used which would be different in each case. [REDACTED] said that the statement made by Respondent was reduced to writing as Sheriff's Exhibit 2. She was then given a chance to review and make any changes. She did not make any changes and signed off on it under where it stated, "My signature verifies that the information contained in it is accurate and complete."

On re-cross examination, [REDACTED] agreed that the disciplinary recommendation on the Command Channel Review form was changed. It was signed by [REDACTED] on September 23, 2014. He said that initially the disciplinary recommendation was 30 days for Respondent. He believed that [REDACTED] signed the document on behalf of the Under Sheriff.

[REDACTED]

[REDACTED] (herein after "[REDACTED]") testified that he is currently employed with the University of Tennessee, County Technical Assistance Service as a jail management consultant providing services to 95 counties in Tennessee. [REDACTED]'s CV was marked as Sheriff's Exhibit 13. He said he had approximately 37 years of experience in the field of corrections. He spent 22 years in the Marine Corps of which 19 years in the confinement facilities as a line level officer to a commanding officer and 3 years as a drill instructor, 1 year as the Jail Captain at the Hamilton County Sheriff's Office, and lastly as the Chief of Corrections at Hamilton County Sheriff's Office in Chattanooga, Tennessee with 500-bed facility responsible for day to day operation.

During voir dire of the witness, [REDACTED] testified that as a consultant, he advised approximately 118 jails across the state of Tennessee in issues such as development of a policy and procedure to facility development process of new construction. With regard to the policy and procedures, [REDACTED] dealt with issues such as operational assessment in the search practices and procedures in the areas of searches, individual searches, and strip searches. He also dealt with training practices and evaluations in dealing with suicide attempts. Over the last 8 years, [REDACTED] was involved in the guidelines of use of force less than five (5) times. He said 145 uniformed correctional officers and 14 to 15 health care providers were involved in the running of the 500 bed facility at the Hamilton County Sheriff's Office. [REDACTED] said he held two (2) certifications: Certified Corrections Executive through the American Correctional Association and Certified Jail Manager through the American Jail Association. The seminars and training he attended or as an instructor were all listed on his CV. He had never worked at or for the Cook County Sheriff's Office prior to this engagement. He was an auditor with the American Correctional Association that participated in the audit approximately 15 years ago. On the subject of report writing, [REDACTED] had given testimony once prior to this matter.

During the follow up of voir dire of the witness, [REDACTED] testified that Sheriff's Exhibit 14 was a copy of his use of force experiences which supplemented his CV. As a correctional supervisor, [REDACTED] participated in the annual in-service training addressing the use of force. In the leadership positions, [REDACTED] investigated various incidents of excessive use of force. As the Chief of Corrections at the Hamilton County, [REDACTED] was responsible for making recommendations to the Sheriff during civil hearings and termination proceedings for employees that used excessive force outside the policy and procedure of the agency. [REDACTED] had investigated approximately 15 to 20 cases personally. He had reviewed approximately 40 to 50 cases at Hamilton County in the 11 ½ years of employment. [REDACTED] was being compensated for this case at the rate of \$90 per hour.

During the additional voir dire of the witness, [REDACTED] said he wrote the document titled, "[REDACTED], Corrections Use of Force Experience" in mid-August. [REDACTED] was not a correctional officer at the Hamilton County but was hired as the jail captain and was required to complete 40 hour state corrections certification program. In his program, he learned the escalation of use of force which was similar to the John C. Desmedt Model.

[REDACTED] was deemed an expert in the areas of use of force and report writing.

On direct examination, [REDACTED] testified that he believed that [REDACTED] initial strike to the side was in effort to gain control of [REDACTED]. All the blows and strikes after the initial strike were excessive. To come to his conclusion, [REDACTED] reviewed the video footage, incident reports, and use of force reports, OPR report, and CCSO power points on use of force and report writing, and the Sheriff's orders. [REDACTED] said that from 2:56:06 to 09, [REDACTED] threw four (4) punches to [REDACTED] head while he was bent over a retaining wall. [REDACTED] further said that Respondent appeared to step in to try to shield [REDACTED] from the blows but failed to document what she saw and what she did. At 2:56:09, [REDACTED] stood upright when [REDACTED] punched him. Respondent reached over the barrier wall and attempted to push [REDACTED] away. At 2:56:43, [REDACTED] attempted to grab [REDACTED] but was blocked by Respondent, [REDACTED] and [REDACTED] while [REDACTED] had control of [REDACTED]. [REDACTED] said Respondent failed to document this.

On cross-examination, [REDACTED] testified that the first time he saw the Desmedt Model was June of 2015. At 2:56:05, when [REDACTED] struck [REDACTED], [REDACTED] could not determine if a contact was made. At 2:56:08 when [REDACTED] lifted his head and made a head motion toward [REDACTED], [REDACTED] opinion was that [REDACTED] was attempting to spit at [REDACTED]. The video did not have audio. [REDACTED] did not attend the Sheriff's Office in-service training in report writing but he reviewed the power points. [REDACTED] did not ask [REDACTED] why he had struck [REDACTED] or any other officers involved in this matter to ask why they took certain actions. [REDACTED] opinion that Respondent attempted to push [REDACTED] or his arm away from [REDACTED] was based on his view of the video. [REDACTED] explained that to him totality of the circumstances analysis considers the officers on the scene making decisions based on their training, experiences, policies and procedures on how to respond to the level of resistance or the potential threat to harm offered by the inmate. [REDACTED] did see that the floor of the holding cell was flooded but did not see water flowing. According to the Sheriff's Order, officers can use direct mechanical strikes to the body, use impact weapons, or electronic control devices such as Tasers when encountering a low level assailant. By looking at the video, [REDACTED] could not determine if any instructions were given or whether [REDACTED] complied with them. From his reading of the Sheriff's Order, [REDACTED] agreed that the officer may need to start with a proportionately greater amount of force than the threat level dictated by the inmate. The supervisor in this case was [REDACTED]. According to the Integrated Use of Force Model, a moving resister was someone who was moving to avoid physical control where the officers may use either control modes without weapon, such as holding or restraining; or impact strikes, such as Tasers or even canine bites if available. When an assailant or an individual who was aggressively offensive without weapons, the tools available to officers may include pressure strikes or pressure stuns to the body to assist the officer in gaining compliance with the inmate. [REDACTED] did not know if [REDACTED] was spitting at the officers but the reports indicated that [REDACTED] spit at the officers. He would characterize spit as a weapon and [REDACTED] mouth as the weapon delivery system. [REDACTED] could not conclude that [REDACTED] attempted to head butt the officers but if he did, [REDACTED] would characterize [REDACTED]'s head as a weapon delivery system. [REDACTED] believed that Respondent failed to document [REDACTED]'s response to [REDACTED] when she, after observing or witnessing a use of force, failed to complete a witness statement according to the Sheriff's

Order. [REDACTED] explained that the Response to Resistance/Use of Force form was for the actions taken by the individual officer. [REDACTED] was involved in the use of force and completed his actions taken in the Response to Resistance/Use of Force form. Respondent also completed the Response to Resistance/Use of Force form based on her individual actions.

On re-direct examination, [REDACTED] testified that lower pressure impact were wrist locks, arm bars, and attempts to gain control of the subject whereas mechanical were direct strikes to the body. [REDACTED] said that he would classify [REDACTED]'s strikes to [REDACTED] from 2:56:06 to 2:56:14 as mechanical direct strikes. [REDACTED] said that he would consider [REDACTED] strikes to [REDACTED] head to be excessive, inappropriate since [REDACTED] was bent back over a wall. In [REDACTED] opinion, Respondent's Response to Resistance/Use of Force form was insufficient because she failed to articulate her actions or other officers' action in striking [REDACTED]. [REDACTED]'s experience with use of force model was similar to the John C. Desmedt Use of Force Model in that they all start with basic inmate compliance to officer presence, moving through verbal instruction with the inmate to actually having to lay hands on or control the inmate and moving all the way through the deadly force.

On re-cross examination, [REDACTED] testified that at Hamilton County, they utilized the use of force matrix. He would characterize [REDACTED] as a moving resister throughout the incident. If [REDACTED] had spit when he moved his head toward [REDACTED], [REDACTED] would characterize [REDACTED] as an assailant aggressively offensive without weapon. One of the reasons why [REDACTED] characterized [REDACTED] use of force as excessive was because [REDACTED] was pressed and bent over a wall when strikes were made. [REDACTED] believed that the focus moved to [REDACTED] instead of [REDACTED] when other officers tried to separate him from the incident. Since [REDACTED] was a moving resister, the model allowed the officers to use low pressure impact strikes, holdings or restraining. Despite the holding and restraining, [REDACTED] was still a moving resister. [REDACTED] believed that Respondent's narrative part of the report was insufficient because she did not articulate [REDACTED] actions. Under the Response to Resistance/Use of Force Policy, paragraph 2, "Witnessing a use of force incident shall be required to complete and submit to the responding supervisor a Witness Statement as part of the Data Collection Form completed by the watch commander prior to the end of the shift."

The following witness testified for the Respondent:

RESPONDENT:

Respondent testified that she currently worked as a correctional officer with the CCSO Department of Corrections and had been so for 20 years. She was assigned to Receiving, RCDC, Division V. Her shift was from 2 pm to 10 pm, detail 1 for the past 6 years. Her assignments included maintaining day-to-day operation in the female side of the building processing the court returns and the new inmates coming in. She had disciplines filed against her but they were all overturned by grievance. On August 7, 2013, she was called into [REDACTED] holding cell because he was misbehaving. When she went into the holding cell, she observed [REDACTED] and [REDACTED] struggling with [REDACTED]. She did not see what had happened before but she saw that the floor was flooded. Respondent said that [REDACTED] and [REDACTED] were also present. She believed that [REDACTED] had stuffed the toilet with something that caused the flooding. Respondent walked cautiously since the floor was wet. When she came into the holding cell, Respondent walked immediately towards [REDACTED] where a wall was separating her from [REDACTED]. [REDACTED] was not in compliance with the

officers' directives. Respondent said that she saw [REDACTED] spitting at the officers, moving and being totally uncooperative. Respondent and the officers were trying to get [REDACTED] restrained and cuffed since he was being combative. Respondent said she became involved because [REDACTED] was spitting. She was attempting to cover [REDACTED] face with her body to prevent [REDACTED] from spitting while the other officers were holding [REDACTED] arms. The video was played. At 2:55:55, [REDACTED] and [REDACTED] came into the holding cell. [REDACTED] was immediately right to the officers behind a half wall. There was a sink and a toilet behind [REDACTED]. The room was four (4) feet by six (6) feet. At 2:55:58, [REDACTED] and [REDACTED] walk into the holding cell. At 2:56:06, Respondent walked into the holding cell. At 2:56:12, Respondent climbed over a bench toward [REDACTED]. Respondent said that right before she walked up to the bench, [REDACTED] spit. Respondent attempted to get ahold of [REDACTED] head to keep him from spitting. Respondent said that [REDACTED] was swinging at [REDACTED] at the same time. She did not recall how many times [REDACTED] swung at [REDACTED] or whether any contacts were made. At 2:56:11, Respondent thought that [REDACTED] tried to head butt her and spit at her. At 2:56:13, Respondent said that [REDACTED] spit at [REDACTED]. At 2:56:14, [REDACTED] struck [REDACTED] and Respondent believed that there was a contact made. At 2:56:16, Respondent had placed her hand near [REDACTED] chest. She said she did this to let [REDACTED] know that she wanted him to get back so she could handle the front part of [REDACTED] while [REDACTED] and [REDACTED] attempted to get [REDACTED] arms to handcuff him. Again at 2:56:29, Respondent had one arm on [REDACTED] and one arm on [REDACTED]. She said she did this to let [REDACTED] know that she had [REDACTED] upper body and head. At 2:56:36, Respondent said she told [REDACTED] to get [REDACTED] arms. At 2:56:42, when [REDACTED] raised his head up, Respondent thought he was attempting to spit or head butt her. [REDACTED] did spit at Respondent but it did not land on her. Respondent said [REDACTED] was successful at spitting at [REDACTED] and [REDACTED]. Respondent said that applying the Desmet Use of Force Model, she was trained to remove the weapon. This was the reason why she had tried to control [REDACTED] upper body and head to remove the threat. Respondent said [REDACTED] was a moving resister because he did not comply with any verbal commands and attempted to resist being handcuffed. When [REDACTED] spit at the officer, Respondent believed he became an assailant which increased the amount of the officer's reaction. Based on her involvement, Respondent completed the Response to Resistance/Use of Force Report marked as Sheriff's Exhibit 3. Respondent filled out this form to document her actions. Respondent had checked off "Closed Hand Strike/Punch" on the report to describe [REDACTED] use of force against [REDACTED]. Under the narrative portion of the report, Respondent did not describe [REDACTED] using closed hand strikes on [REDACTED] because she believed that this portion was only to describe her actions. Once she completed this form, she submitted to [REDACTED] which was later signed by [REDACTED] and Lt. [REDACTED]. Respondent did not hear [REDACTED] give any directives to [REDACTED] during the incident with [REDACTED]. Once this report was submitted, Respondent was not asked to amend her report. [REDACTED] did not tell Respondent to fill out a Witness Statement or Incident Report. She believed that she was not required to fill out Witness Statement or Incident Report since she was involved in the incident. Respondent did not request to view the video of the incident prior to filling out the report. She was not told that she could not view the video either. Respondent did not believe that the force used on [REDACTED] was excessive because [REDACTED] was never under control. [REDACTED] was not disciplined for this incident. She did not notify a supervisor during this incident because a supervisor, [REDACTED] was present. Respondent claimed that she did not fail to file or file a false report in this incident.

On cross-examination, Respondent testified that she would agree with the statement that as law enforcement, she had many responsibilities including protecting inmates and officers from

harm. Other responsibilities include providing accurate reports. She knew that prior to August 2013, officers could not use force as punishment or retaliation against inmates. She also knew that when she observed an officer use excessive force, she was required to report it. The incident of August 7, 2013 involved her [REDACTED]. She believed [REDACTED] was noncooperative and aggressive throughout the incident. Since the cell was flooded which created additional risk, it was imperative to get [REDACTED] under control as quickly as possible. At 2:56:08, Respondent believed that [REDACTED] either spit at [REDACTED] or [REDACTED]. Prior to spitting, Respondent believed [REDACTED] was a moving resister. At 2:56:08 and 2:56:11, [REDACTED] struck [REDACTED] but Respondent did not know if any contacts were made. Respondent said she reached out to assist [REDACTED] but she did not reach for [REDACTED] arm. At 2:56:14, when [REDACTED] struck [REDACTED] head, she believed it to be a mechanical strike or a stun blow. Respondent did not see [REDACTED] attempting to push [REDACTED] away from [REDACTED] because she was not paying attention to [REDACTED]. At 2:56:18, [REDACTED] swung towards [REDACTED]. At 2:56:29, Respondent took one of her hands off [REDACTED] to deal with [REDACTED] because he moved toward [REDACTED]. Prior to viewing the video, Respondent did not have independent recollection of the events. Respondent and [REDACTED] did not have any interactions with [REDACTED] prior to August 7, 2013. Respondent said she had placed her body in front of [REDACTED] and placed her hands to keep [REDACTED] head down to remove the weapon. At 2:57, [REDACTED] took [REDACTED] down to the ground and placed handcuff. Respondent did not assist in this because she was escorting [REDACTED] out of the cell. Other than [REDACTED] Respondent did not observe any other officers striking [REDACTED]. During the incident, Respondent was attempting to control [REDACTED] and told [REDACTED] to help [REDACTED] in getting [REDACTED] arms so he could be handcuffed. Respondent said that [REDACTED] striking and swinging at [REDACTED] did not help the situation in fact, nothing did. Respondent did not believe [REDACTED] actions were excessive use of force. Respondent agreed that [REDACTED] was the focus of [REDACTED] rage.

Sheriff's Exhibit 3 was a copy of Respondent's report. She agreed that it was important to be accurate in filling out reports, to document the type of force used, and how much force was used. First part of the report, Respondent said that she was required to describe actions of all officers involved in the incident and the narrative part was the part where she would describe her actions. She did not describe other officers' actions in the narrative because each officer was required to fill out a report to document his/her actions. Respondent said she placed "X" on the boxes but did not place checks. She did not know who had placed checks on the report. She did not fill out "CR No. 154149" or Sections 40, 41 and 42. She said she filled out as much as she could. Sheriff's Exhibit 2 was a copy of Respondent's statement to OPR. Respondent told OPR that [REDACTED] had said, "I'm going to spit on your [REDACTED] [REDACTED]". She did not include this statement in her Use of Force Report. During the interview with OPR, Respondent was asked to give a narrative of the incident. She did not inform OPR that [REDACTED] threw strikes at [REDACTED]. Only when she was asked about it, she informed OPR that [REDACTED] may have thrown some punches at [REDACTED].

Sheriff's Exhibit 3 was shown again. Respondent agreed that she did not fill out many of the boxes even though she was required to place N/A if the box did not apply to the incident. She said that it was a crazy day and she filled out as much as she could. No supervisor had given the report back to her to finish.

On re-direct examination, Respondent testified that she had put everything she did in the narrative that she remembered. Respondent agreed that boxes 40, 41 and 42 were all checked off

accurately. Based on her involvement, Respondent did not know that she was required to check off the boxes that were checked off. All officers that were involved in the incident were required to submit separate reports. She believed that [REDACTED] filled out the use of force report and [REDACTED] filled out a witness statement. She knew this because all officers were in holding together when they filled out the reports. She could not say for sure if [REDACTED] used a stun or mechanical strikes from viewing the video. She could not identify the degree or amount of pressure used during the incident. She was able to see more from viewing the tape than what she remembered. From where she was on the other side of the wall, she was not able to see everything compared to the video tape. During this incident, Respondent said her goal was to place [REDACTED] in cuffs with "no harm, no foul." In her view, this was not a possible goal. Applying the term "totality of the circumstances", she took into account of everything that was going on to gain compliance from [REDACTED]. When she wrote out the use of force report, Respondent did not know if any of [REDACTED] strikes landed on [REDACTED]. Respondent said she would not lie or taint her testimony to benefit her [REDACTED]. Respondent said [REDACTED] was the reason [REDACTED] was so angry. [REDACTED] did not cry out in pain and Respondent did not observe any physical injuries to him.

Respondent said that the OPR interview was more like question and answer format. OPR Investigator asked Respondent if [REDACTED] administered any strikes to [REDACTED] and she answered yes. She did not remember if she told them whether the strikes landed on [REDACTED] or not. Where the statement said, "I saw him throw some punches at Detainee [REDACTED]" was the exact words that Respondent told OPR.

On re-cross examination; Respondent testified that she observed [REDACTED] strike [REDACTED] at 2:56:09 to 2:56:11 and 2:56:15 but not 2:56:20. During the OPR interview, Respondent was given her rights and allegation filed against her. It said, "The nature of the allegation: It's alleged that the accused officer failed to report the use of excessive force by CO [REDACTED] on [REDACTED] on August 7, 2013. " Based on this, Respondent knew that she was going to be sked questions regarding an allegation of excessive force used by [REDACTED].

Joint Exhibit 8 – Testimony during CO [REDACTED] case, September 24, 2015:

[REDACTED] testified that she was assigned to RCDC as a sergeant working with [REDACTED]. On August 7, 2013, she observed interactions between [REDACTED] and [REDACTED] in the bullpen. She arrived at the bullpen same time as [REDACTED] and observed that [REDACTED] had flooded the bullpen. She told [REDACTED] to come out so that the officers could restrain him but he was not following her orders. She told [REDACTED] to put his hands behind his back, turn around so that they could cuff him. [REDACTED] was not listening and began spitting. She did not remember how many times [REDACTED] spit but she knew that [REDACTED] was spitting at [REDACTED] and [REDACTED] tried to restrain [REDACTED] by putting his hands behind his back but that did not work. They then used necessary force. At some point during the struggle, [REDACTED] grabbed [REDACTED]. Respondent stated that she did this because [REDACTED] kept spitting and [REDACTED] kept striking [REDACTED]. At 2:56:08, [REDACTED] spit at her. She grabbed [REDACTED] because it was escalating and [REDACTED] striking [REDACTED] was not helping the situation. [REDACTED] did not comply with her command initially. Respondent said that at 2:56:47, she pushed [REDACTED] because [REDACTED] spit again. At 2:56:52, [REDACTED] grabbed [REDACTED] by his shirt and collar to pull him away so that she could gain control of the situation. At 2:57, [REDACTED] took [REDACTED] down to the floor. She observed [REDACTED] swing his arm or fist at [REDACTED] but could not remember how many times.

On cross-examination, [REDACTED] testified that she was [REDACTED] supervisor. There were Lieutenants [REDACTED] and [REDACTED] on duty ranked higher than her. In accordance with the general orders, [REDACTED] was required to prepare a report but she did not have access to the video. She did not immediately prepare a report but reported the incident to her supervisors. When she first entered the bullpen, she determined that [REDACTED] spit was targeting [REDACTED]. She pushed [REDACTED] away from [REDACTED] in belief that she was pushing the target away. She said at no time was [REDACTED] under control until he was taken down by [REDACTED]. In addition to spitting, [REDACTED] was physically and verbally resisting. As the highest ranking member in the bullpen, [REDACTED] said she was responsible for make sure that the situation was under control. She believed that telling [REDACTED] to step away was to allow officers to gain control. When [REDACTED] stepped away, [REDACTED] was still "little resistant." [REDACTED] said that she did report immediately to her supervisor regarding what had happened in the bullpen. She said that she thought that she prevented excessive use of force by moving [REDACTED] out of the area.

Joint Exhibit 9 – Testimony during CO [REDACTED] case on September 24, 2015:

On direct examination, [REDACTED] (herein after "[REDACTED]") testified that she was employed by the CCSO as a correctional officer. She had been there for approximately 20 years and attended training at Triton College and Sheriff's Training Academy. She was trained in the Sheriff's use of force policy. On August 7, 2013, she was assigned to Receiving and female discharges. She explained that she was sitting across from a bullpen when she saw water flowing out of it. She entered the room where the bull pen was located and learned that an inmate had flooded the bullpen. There were [REDACTED] and [REDACTED] in the bullpen. She was present when [REDACTED] took the inmate to the ground. She said she went in to assist. She observed that the inmate was combative and refusing to be handcuffed. She did not observe [REDACTED] use force against [REDACTED] in violation of the Sheriff's Use of Force Policy.

On cross-examination, [REDACTED] testified that she did not see [REDACTED] use any force. She was standing behind [REDACTED] and did not see [REDACTED] swing or punch the inmate. [REDACTED] said that since she did not see [REDACTED] use any force, [REDACTED] could not violate any policy for using excessive force.

Joint Exhibit 10 – Testimony during CO [REDACTED] case on September 24, 2015:

On direct examination, [REDACTED] testified that he was employed by the Cook County Sheriff's Office as a correctional officer for 9 years. Prior to becoming a correctional officer, he attended the Sheriff's Academy that lasted for 16 weeks. On August 7, 2013, he was on duty from 2 pm to 10 pm. His assignment was male holding in Receiving. [REDACTED] said [REDACTED] came in as a transfer so he placed him in a holding cell for the new division for a pick up. He first encountered [REDACTED] as he was at the holding desk in the basement of Receiving when [REDACTED] was brought over for a transfer. [REDACTED] was first placed in the hallway but became agitated and started throwing his stuff around. [REDACTED] was told to stop. [REDACTED] and [REDACTED] tried to gain control and placed handcuffs. [REDACTED] started to pull away. [REDACTED] did not see [REDACTED] strike [REDACTED]. [REDACTED] was placed in a cell. [REDACTED] started to spit at them. [REDACTED] then received a call from an officer in the controls who said that [REDACTED] was flooding the cell. [REDACTED] went back to the cell to

retrieve the item used by [REDACTED] to flood the cell. He observed water all over the floor and gave [REDACTED] a verbal command to turn around and be placed in cuffs to be moved to a different cell. [REDACTED] did not comply. When [REDACTED] approached [REDACTED] put his back to the wall and resisted. [REDACTED] had [REDACTED] in one arm as [REDACTED] struggled. [REDACTED] was eventually taken down to the floor by [REDACTED] and placed in handcuffs. [REDACTED] then walked toward the toilet to stop from flooding.

Immediately after the incident, [REDACTED] prepared an incident report and a use of force report. [REDACTED] said that he could have asked to see the video prior to writing up his reports but he did not do so. He prepared his reports from his recollection of the events. He believed that [REDACTED] was a threat to him and other officers. He had concern for the safety of himself and his fellow officers. He observed [REDACTED] spitting at the direction of all officers. [REDACTED] described [REDACTED] to be a very strong young man. From the video, [REDACTED] said that you could not determine how rigid [REDACTED] body was or the degree of force [REDACTED] exerted against him.

On cross-examination, [REDACTED] testified that he did not observe [REDACTED] throw any punches at [REDACTED] because he was focused on maintaining control of [REDACTED]. [REDACTED] said that he alone took control and took [REDACTED] down to the floor. [REDACTED] was concerned for his own safety but he did not throw any punches. When [REDACTED] entered the cell, the water had not leaked out into the hallway. He gave [REDACTED] verbal commands but he did not comply. When he walked into the cell, [REDACTED] knew that [REDACTED] was not going to comply with his commands; that [REDACTED] was going to resist him; that [REDACTED] was going to be combative with him; and that he would probably have to use force to get [REDACTED] in handcuffs. [REDACTED] believed that [REDACTED] spit more than once but not more than five times while in the bull pen.

Joint Exhibit 11 – Testimony during CO [REDACTED] case on September 24, 2015:

[REDACTED] testified that he had been working for the Cook County Sheriff's Office as a correctional officer for 22 years. He attended Sheriff's training academy for 16 weeks and received an assignment at the jail. He was trained to use the John C. Desmedt and Protective Safety Systems Use of Force Model. After the academy, he received additional training in the Sheriff's Office on the use of force. On August 7, 2013, he worked from 2 pm to 10 pm in the male holding, Receiving. [REDACTED] said he did not know [REDACTED] prior to this incident. His first encounter with [REDACTED] was in the bullpen (aka holding cell) when [REDACTED] requested protective custody. [REDACTED] was being transferred and bullpen was where he was being held prior to the transfer. [REDACTED] said that inmates were not allowed to bring personal property into the bullpen.

A video was played that showed the hallway (marked as Sheriff's Exhibit 1 in the CCSO vs. [REDACTED]). [REDACTED] explained that he was trying to get [REDACTED] to leave his property outside the bullpen since inmates were not allowed to take their property into the bullpen. [REDACTED] began to go through his belonging. He told [REDACTED] to put his stuff down. [REDACTED] did not comply and began to put something in his side. He told [REDACTED] to drop it. [REDACTED] did not comply. He placed his right hand on [REDACTED] shoulder and with his left hand tried to grab the item out of [REDACTED] side. [REDACTED] forcibly pulled the item and [REDACTED] became agitated. [REDACTED] started to swear at [REDACTED]. At that point, [REDACTED] was on [REDACTED] left side and [REDACTED] was on the right trying to get [REDACTED] close to the door of a bullpen as [REDACTED] resisted. [REDACTED] struck [REDACTED] on the side of the face to get [REDACTED] to cooperate with them. At some

point, [REDACTED] opened the door of the bullpen and [REDACTED] pushed [REDACTED] towards the bullpen. As [REDACTED] was exiting the bullpen, [REDACTED] spit at his face. [REDACTED] arm came out of the bullpen's bar and the door did not close all the way. The door was finally released and they were able to close it. [REDACTED] began to search [REDACTED] property to see if there was any kind of contraband. [REDACTED] took his shirt off and took a fighting stance with his arms up. No further physical confrontation took place and [REDACTED] left. As [REDACTED] began writing up his report regarding the incident in the hallway, he received a call from the master control that [REDACTED] was flooding the bullpen. [REDACTED] walked into the bullpen in front of [REDACTED]. He observed [REDACTED] standing by the toilet. [REDACTED] told [REDACTED] to step away from the toilet and be prepared to get cuffed. [REDACTED] squared up against a wall and [REDACTED] tried to get control of [REDACTED] to place handcuffs on him. [REDACTED] struck [REDACTED] on the side to gain control of [REDACTED] left arm. [REDACTED] then put his left arm and back-elbowed [REDACTED] face. [REDACTED] then struck [REDACTED] side of his face. He did not know if he had landed any strikes because [REDACTED] was moving around struggling with both officers. [REDACTED] said [REDACTED] then spit at his face. He continued to strike [REDACTED] to get his arm to be cuffed. C. McClendon came into the video while [REDACTED] tried to head-butt and spit toward her. [REDACTED] struck [REDACTED] again. He claimed that he was trying to take away the threat of spitting and not to punish or injure him. The purpose of striking was to gain control of [REDACTED]. [REDACTED] was taught to eliminate the weapon and in this case, spitting was the weapon. Respondent then told [REDACTED] to back down so that she could assume control of the situation. As [REDACTED] was walking away, he saw [REDACTED] standing about 5 feet away spitting at C. McClendon. [REDACTED] stepped back in because [REDACTED] was still being aggressive and spitting. Once [REDACTED] was under control by [REDACTED], [REDACTED] ceased to use force against [REDACTED].

After this incident, [REDACTED] returned to complete his reports. He did not fill out a report for the incident that occurred in the hallway. He said he wrote the reports based on his perception and did not consciously omit any information. A report titled "Response to Resistance/Use of Force Form" was given to him by his supervisor to fill out immediately after the incident. He said he wrote down "closed hand strike" under Assailant meaning the he delivered a punch or strike to [REDACTED]. He did not remember the number of times he struck [REDACTED]. Prior to writing this report, [REDACTED] was not allowed to view the video of the incident or speak to other officers. He wrote the report based on how he was trained in the academy. [REDACTED] was told that he was being sent to remedial education taught by Sergeant [REDACTED] in lieu of any other discipline for this incident.

On cross-examination, [REDACTED] testified that in August of 2013, he was aware that under the Sheriff's general order, he could not use excessive force nor use force as punishment or retaliation. On August 7, 2013, he was involved in an incident with [REDACTED] who was combative and aggressive throughout both incidents. He said he had never been spit on prior to this incident and that spitting was rare occurrences. Inmates have thrown rotten milk and food at him before. The incident with [REDACTED] occurred in the hallway prior to [REDACTED] being placed in a bullpen. [REDACTED] did not listen to [REDACTED] when he commanded him to drop his property. [REDACTED] dropped some of his property to the ground but not all. At some point, [REDACTED] took the item from [REDACTED] forcefully. He claimed that [REDACTED] was agitated and combative prior to his involvement. When [REDACTED] refused to be placed inside a bullpen, he and [REDACTED] grabbed and slammed him against the door. They then forced [REDACTED] to get him to the door and [REDACTED] gave [REDACTED] a shock to his head to gain control. Once [REDACTED] was placed in a cell, [REDACTED] spit and threw something at [REDACTED] as [REDACTED] was making verbal threats. [REDACTED] then took a fighting

stance which made him a mid-level assailant. He believed [REDACTED] was still a risk since the door was unsecured at that time. He told [REDACTED] to back up in an aggressive manner and walked out of the cell securing it. [REDACTED] did not know that he would have to use force to get [REDACTED] under control during the second encounter. When he walked up to [REDACTED] punched [REDACTED] in the side to gain control of his left arm. [REDACTED] started to struggle with [REDACTED] and he pushed [REDACTED] arm down as he threw another strike on the body. [REDACTED] spit at [REDACTED] at 2:56:08 and attempted to hit him with his elbow. [REDACTED] then struck [REDACTED] in the face to stop the battery (spitting) from happening. He did not recall if he was trained to strike detainees in their face when detainees spit at him. The video showed [REDACTED] striking [REDACTED] four times. At 2:56:14, [REDACTED] struck [REDACTED] in the face but he claimed that the strikes did not land on [REDACTED]. [REDACTED] claimed that C. McClendon did not push him away but that she attempted to push [REDACTED] head toward the wall. [REDACTED] agreed that he struck [REDACTED] 5 times near his face but was not successful in getting [REDACTED] under control. At 2:56:18, [REDACTED] struck [REDACTED] again when Respondent pulled him away. [REDACTED] explained that Respondent was attempting to get him out of the way because [REDACTED] was focused on him when spitting. [REDACTED] tried to walk back toward [REDACTED] when C. McClendon got in between. He claimed that he did not touch [REDACTED] because he had backed off. At 2:56:50, [REDACTED] walked back toward [REDACTED] because [REDACTED] was still being aggressive and spitting but was stopped by Respondent. Respondent grabbed [REDACTED] by his shirt and pulled him away saying that he needed to leave. At 2:57, [REDACTED] took [REDACTED] down to the ground without [REDACTED] assistance. At 2:57:03, [REDACTED] came back into the cell to make sure that [REDACTED] was secure. He claimed that he was not "pushed" out by another officer but that he walked out on his own. He would not agree that his punches and strikes to [REDACTED] made [REDACTED] more agitated. He did not see any other officers throwing strikes or punches at [REDACTED]. Respondent and C. McClendon were both spit on by [REDACTED] but C. McClendon did not throw any punches or strikes. He agreed that it was important to document what force was use and to be accurate when reporting the incident to the best of his ability.

Sheriff's Exhibit 2 was a copy of the use of force report completed by [REDACTED]. He said that he checked the box for "closed hand strike/punch" and that [REDACTED] was either a low-level assailant or a mid-level assailant but never a high-level assailant. On August 7, 2013, [REDACTED] weighed 300 pounds and 6 feet tall. He believed [REDACTED] was around 6 feet 1 or 2 inches tall. He did not know how much [REDACTED] weighted. [REDACTED] said that the second page of the Sheriff's Exhibit 2 was where he summarized what he did. He did this without the access to the surveillance video. He did not request to see the video because he did not know if he could ask to see it. He did not request to speak to other officers prior to filling out Sheriff's Exhibit 2. He only listed striking [REDACTED] once in the side of the stomach because it happened in the heat of the moment and his memory wasn't clear. He did not remember if the general orders required him to write the use of force report right away but that his supervisors wanted him to do so. Looking at the narrative portion on the second page, [REDACTED] did not write about the incident that occurred in the hallway. He claimed that he filled out 4 or 5 different reports and they were almost verbatim.

Sheriff's Exhibit 6 was a copy of the statement [REDACTED] made to OPR in February of 2014. In the statement he indicated that while he was in process of placing [REDACTED] in the bullpen, [REDACTED] turned around and spit in his face. He did not tell OPR that he forcibly put [REDACTED] against the door and then struck him in the head. He told OPR basically same as he reported in his use of force report that [REDACTED] was combative, spitting and that he may have punched [REDACTED]

once or twice. He did not tell OPR that he had punched [REDACTED] in the head at any point or that he was not the one that brought [REDACTED] to the ground to handcuff him. [REDACTED] claimed that the remedial training by Sergeant [REDACTED] in December of 2013 was in lieu of discipline. He did not recall how many instructors were present. He said he was given a copy of the notice of allegation but he did not tell OPR that the remedial training he received was in lieu of discipline. He was in the process of getting his credentials back since he had been de-deputized. [REDACTED] attempted to file a grievance through his union but was unsuccessful.

Findings/Conclusion of the Law:

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits that were admitted, the Board finds that the Respondent did violate Sheriff's Order 11.2.1.0, General Order 24.9.1.0, Sheriff's Order 11.2.20.0 when she failed to submit a Witness Statement or Incident Report, failed to document [REDACTED] excessive use of force, submitting Response to Resistance/Use of Force Report that was untruthful or incomplete, and not being truthful to OPR during her interview on March 28, 2014.

As a result of violating the above Sheriff's Orders and General Order, Respondent violated Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B.

Order:

Wherefore, based on the foregoing, it is hereby ordered that Respondent is suspended from the Cook County Sheriff's Office for forty-five (45) days from the date of December 23, 2014.

Catherine McClendon #1797


JAMES P. NALLY, Chairman


BYRON BRAZIER, Vice-Chairman


JOHN J. DALICANDRO, Secretary


BRIAN RIORDAN, Board Member


VINCENT T. WINTERS, Board Member


KIM R. WIDUP, Board Member


JENNIFER E. BAE, Board Member


PAT BRADY, Board Member


GRAY MATEO-HARRIS, Board Member

Dated: September 15, 2016

Docket No. 1797

Dissent on Decision

I write in dissent of the decision issued by the Board regarding Respondent Catherine McClendon (the Respondent) as to the length of the suspension. The Sheriff, in its initial complaint, requested the Respondent be suspended for a period of 90 days and the Board reduced the suspension to 45 days. This suspension was issued after finding, by a preponderance of the evidence, that the Respondent violated certain General Orders of the Cook County Sheriff's Office (CCSO) and Merit Board Regulations, as alleged in the initial complaint and confirmed by the final decision in the matter. The Board reached this determination based on the evidence presented, the assessment of the credibility of the witnesses, and the weight given to the evidence in the record.

I agree with the finding in this matter and my objection – through this dissent - is only to the changing of the length of time of the suspension. My objection is based upon the act of the Respondent failing to submit a Witness Statement or Incident Report; failing to document Correctional Officer [REDACTED] excessive use of force; submitting a Response to Resistance/Use of Force Report that was untruthful or incomplete; and not being truthful to OPR during her interview on March 28, 2014. The detainee involved in this matter was clearly involved in actionable conduct that had to be addressed by the correctional officers but the failure of some of the correctional officers to be candid regarding their actions decreases their believability regarding the conduct of the detainee. One such example was the Respondent later admitted to OPR that the detainee had said to [REDACTED], "I am going to spit on your [REDACTED]". The Respondent did not include this statement in her Use of Force Report. Her actions of failing to be candid and properly reporting the circumstances of the event is an egregious act that should prevent the reduction in the number of days of her suspension. It is inexcusable that those charged with enforcing the laws, as the Respondent is, put themselves in the position of having a lack of candor. Law enforcement is a position of public trust and must always maintain the confidence of the public in their truthfulness and veracity. A lack of candor by an officer potentially puts law enforcement in danger of losing this public trust.

Kim R. Widup, Board Member

Dated:

8/24/2019

COOK COUNTY SHERIFF'S MERIT BOARD

SHERIFF OF COOK COUNTY

vs.

CATHERINE McCLENDON,
Correctional Officer,
Employee # [REDACTED],
Star #3101.

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DISSENT ON DECISION

I write in dissent of the decision issued by the Board regarding Respondent Catherine McClendon ("Respondent") as to the discipline issued. The Sheriff, in its initial complaint, requested that Respondent receive a suspension of 90 days but the Board issued only a suspension of 45 days. This suspension was issued after finding, by a preponderance of the evidence, that the Respondent violated certain General Orders of the Cook County Sheriff's Office (CCSO) and Merit Board Regulations, as alleged in the initial complaint and confirmed by the final decision in the matter. The Board reached this determination based on the evidence presented, the assessment of the credibility of the witnesses, and the weight given to the evidence in the record.

I agree with the finding in this matter and dissent only as to the discipline issued. Given Respondent's lack of candor throughout the investigation process and hearing, and given her failure to report and document the excessive force she witnessed, I recommend a suspension of 60 days.

[REDACTED]

Gray I. Mateo-Harris, Board Member

09/02/16

Date